

**NOT FOR PUBLICATION**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

MARVIN MONTGOMERY,	:	CIVIL ACTION NO. 09-1398 (MLC)
	:	
Plaintiff,	:	<b>MEMORANDUM &amp; ORDER</b>
	:	
v.	:	
	:	
NESTLES CO. and M & M CO.,	:	
	:	
Defendants.	:	
_____	:	

**THE COURT** – in a previous action brought by the plaintiff seeking to obtain lottery winnings pursuant to 42 U.S.C. § 1983 – ordering, inter alia, that (1) the plaintiff must have any new purported complaint reviewed by this Court before it is filed, and (2) this Court would determine whether to direct the filing of such papers, or to retain them in Chambers without further action or response, see Montgomery v. Haines, No. 99-116 (MLC), 6-22-99 Order; and

**THE PLAINTIFF** now submitting several pieces of paper torn out of a notebook, on which is written by hand apparent claims against a defendant listed as “Nestles Co.” for “failure to pay out sweepstakes winnings and to honor sweepstakes award fully” (dkt. entry no. 1, 11-9-07 Document); and the plaintiff alleging that he is due a “grand prize” of \$1,000,000 as a result of buying a certain candy bar with a certain wrapper, and that the failure to award him a grand prize “violated [his] civil rights”

and the rules of the sweepstakes (id.); and the plaintiff also submitting in support (1) a photocopy of a candy bar wrapper listing all of the potential prizes, and (2) a letter from the entity overseeing the sweepstakes confirming that the plaintiff has won a free candy bar (id., Ex. A, Wrapper and Letter); and

**THE PLAINTIFF** thereafter submitting (1) one piece of paper torn out of a notebook, on which an indiscernible entry is written by hand (dkt. entry no. 1, 3-25-08 Document), (2) more pieces of paper torn out of a notebook, on which is written by hand the same apparent claims discussed above (dkt. entry no. 1, 12-12-08 Document), and (3) one piece of looseleaf paper, on which is written by hand a request to add apparent claims against a defendant listed as "M & M Co." for reasons that are not clear thereon (dkt. entry no. 1, 2-23-09 Document); and

**THE PLAINTIFF** thereafter submitting several pieces of looseleaf paper, on which is written by hand (1) a request to enforce what he describes as a state court final judgment against the defendants, and (2) the same apparent claims discussed above (dkt. entry no. 1, 3-9-09 Document); but the plaintiff also submitting in support a copy of a state court order, dated October 13, 2006, which (1) is not a final judgment, and (2) is merely an order denying a motion to stay entry of a final judgment as moot, as no motion to enter final judgment was pending therein (id., Ex. A, 10-13-06 State Court Order); and the

plaintiff also submitting an application to proceed in forma pauperis (dkt. entry no. 1, Application); and

**THE COURT** intending to grant the application to proceed in forma pauperis; but it appearing that the Court, upon granting such an application, may (1) review a purported complaint, and (2) dismiss it sua sponte if it is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief, see 28 U.S.C. § 1915(e)(2)(B); and it appearing that the Court need not credit bald assertions or legal conclusions, Morse v. Lower Merion Sch. Dist., 132 F.3d 902, 906 (3d Cir. 1997); and

**IT APPEARING** that the plaintiff – despite his repeated submissions – has merely demonstrated that he (1) purchased a candy bar featuring a sweepstakes that offered the possibility of winning a grand prize, and (2) is entitled to a free candy bar; and the plaintiff failing to demonstrate that he is arguably entitled to be awarded a grand prize; and it appearing that the plaintiff's apparent claims require no analysis, as they are patently frivolous; and for good cause appearing;

**IT IS THEREFORE** on this 30th day of March, 2009,  
**ORDERED** that the application pursuant to 28 U.S.C. § 1915 to  
proceed in forma pauperis (dkt. entry no. 1) is **GRANTED**; and

**IT IS FURTHER ORDERED** that the Clerk of the Court **FILE** the  
assorted documents submitted by the plaintiff as a complaint with  
supporting documentation, without the prepayment of fees or  
costs; and

**IT IS FURTHER ORDERED** that the **COMPLAINT IS DISMISSED** as  
being frivolous; and

**IT IS FURTHER ORDERED** that no further submissions concerning  
the claims asserted herein will be acknowledged; and

**IT IS FURTHER ORDERED** that the Clerk of the Court designate  
the action as **CLOSED**.

\_\_\_\_\_  
s/ Mary L. Cooper  
**MARY L. COOPER**  
United States District Judge